

**BONNETT, FAIRBOURN, FRIEDMAN  
& BALINT, P.C.**

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

IN RE WELLS FARGO RESIDENTIAL  
MORTGAGE LENDING  
DISCRIMINATION LITIGATION

This document relates to:  
ALL ACTIONS

) Case No. M 08-01930 MMC (JL)  
)  
) **PLAINTIFFS' ADMINISTRATIVE**  
) **MOTION FOR LEAVE TO FILE LATE**  
) **OPPOSITION TO MOTION TO**  
) **EXCLUDE; DECLARATION OF**  
) **COUNSEL**  
)  
) **ORDER GRANTING ADMINISTRATIVE**  
) **MOTION; SETTING HEARING DATE**  
) **ON MOTION TO EXCLUDE**

**RELIEF REQUESTED**

Pursuant to Local Rule 7-11, Plaintiffs in these consolidated actions hereby request that the Court grant them leave to belatedly file the attached Opposition to Defendant Wells Fargo's Motion to Exclude Exhibits L and R to the Declaration of Wendy Harrison Filed in Support of Plaintiffs' Motion for Class Certification ("Motion to Exclude," ECF Doc. No. 321). The motion is under submission, and the Court has advised the parties that it intends to rule on the papers. (See Order Vacating January 21, 2011 Hearing Date, etc., ECF Doc. No. 368.)

**DISCUSSION**

As set forth in the Declaration of counsel below, Plaintiffs researched and prepared

1 their opposition to the Motion to Exclude in a timely manner, and it was ready for filing on  
 2 December 3, 2010. Due entirely to inadvertence and the sheer volume of paper being  
 3 exchanged in the case, the opposition papers did not get filed along with Plaintiffs other  
 4 motion papers. Plaintiffs were unaware of the error until receiving the Court's minute order  
 5 dated January 19, 2011 (ECF Doc. No. 368), which notes that Plaintiffs had not filed a  
 6 response to the Motion to Exclude.

7 Plaintiffs apologize to the Court for this error and regret any inconvenience it may  
 8 have caused. At the same time, due to the importance of the issues, Plaintiffs submit it would  
 9 be in the interests of justice and the class members for the Court to hear all arguments on this  
 10 issue and resolve it on the merits. Accordingly, Plaintiffs respectfully request that the Court  
 11 accept their attached Opposition for filing and defer ruling on the Motion to Exclude until  
 12 Wells Fargo has an opportunity to file a reply memorandum.

13  
 14 Dated: January 21, 2011

15 BONNETT, FAIRBOURN, FRIEDMAN &  
 16 BALINT, P.C.

17 RODDY KLEIN & RYAN

18 CHAVEZ & GERTLER LLP

19 /s/  
 Nance F. Becker  
 Liaison Interim Class Counsel

20  
 21 **DECLARATION OF COUNSEL**

22 I, Nance F. Becker, declare:

23 1. I am an attorney admitted to practice before all courts of the state of California  
 24 and before this Court. I am a partner in the law firm Chavez & Gertler, LLP, which has been  
 25 appointed Liaison Interim Class Counsel in these consolidated actions. I have personal  
 26 knowledge of the matters stated below and, if called upon, I could and would competently  
 27 testify thereto.

28 2. Plaintiffs' counsel have worked diligently to coordinate their work on this

1 complex case so as to litigate the issues as efficiently as possible and avoid duplication of  
2 effort. Counsel conferred telephonically and by email about Wells Fargo's numerous motions  
3 relating to class certification, and we determined that my firm would prepare the response to  
4 the Motion to Exclude as well as other relevant papers. I personally researched the factual  
5 and legal issues raised by the motion and prepared the Opposition Memorandum, and it was  
6 ready to be filed when due on December 3, 2010. The Opposition Memorandum, which has  
7 not since been edited apart from the date on the signature page, is attached as Exhibit A  
8 hereto.

9 3. Wells Fargo filed the Motion to Exclude on November 22, 2010. In addition to  
10 Plaintiffs' motion for class certification, also pending at that time were at least the following:  
11 Defendant's motion for reconsideration of sealing orders, Defendant's motion for summary  
12 judgment, Defendant's motion re sealing of Plaintiffs' expert reports, Plaintiffs'  
13 administration motion re rescheduling, Defendant's evidentiary objections to Plaintiffs' class  
14 certification motion, and Defendant's administrative motion to file under seal.

15 4. Plaintiffs timely filed our opposition to Wells Fargo's evidentiary objections  
16 and our response to Wells Fargo's objections to and motion to exclude Plaintiffs' expert  
17 witness reports on December 3, 2010 (ECF Doc. Nos. 340, 341, 341-1, 342, 343). We had  
18 intended to file the Opposition to the Motion to Exclude at the same time. We were  
19 completely unaware that the Opposition had not been filed until we received the Court's  
20 January 19, 2011 Order noting that no response had been filed.

21 I declare under penalty of perjury under the laws of the United States that the  
22 foregoing is true and correct, and was executed on January 21, 2011 at Mill Valley,  
23 California.

24  
25 /s/

26 \_\_\_\_\_  
Nance F. Becker  
27  
28

**PROPOSED ORDER**

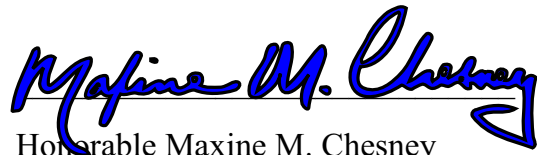
The Court having reviewed Plaintiffs' administrative motion seeking leave to file their Opposition to Wells Fargo's Motion to Exclude Exhibits L and R to the Declaration of Wendy Harrison Filed in Support of Plaintiffs' Motion for Class Certification, which ~~motion~~ administrative motion is not opposed ~~is currently under submission~~, and good cause appearing, hereby GRANTS the motion.

Defendant shall file any reply to the opposition no later than February 4, 2011.

The Motion to Exclude is hereby set for hearing on April 29, 2011, at 9:00 a.m.

SO ORDERED.

Dated: January 27, 2011



Honorable Maxine M. Chesney

Judge, U.S. District Court